IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA DALE OWEN DUSTIN, No C-08-5602 VRW (PR) Plaintiff, ORDER OF DISMISSAL V JOHN DOE, (Doc # 5) Defendant.

This civil rights action by a prisoner was initiated on December 16, 2008. The court notified plaintiff in writing at that time that the action was deficient because plaintiff failed to file a proper complaint and did not pay the requisite \$ 350.00 filing fee or, instead, submit a signed and completed court-approved in forma pauperis application, including a completed certificate of funds in the prisoner's account and a copy of the prisoner's trust account statement for the last six months. See 28 USC § 1915(a)(2). Plaintiff was advised that failure to file the requested items within 30 days would result in dismissal of the action.

On February 9, 2009, plaintiff filed a motion to proceed in forma pauperis. Plaintiff, however, still has not filed a proper complaint.

Because more than 60 days have elapsed since plaintiff was directed to file a proper complaint and he has failed to do so or to seek an extension of time to do so, the action is DISMISSED WITHOUT PREJUDICE. In a separate order, the court DENIES WITHOUT PREJUDICE plaintiff's motion to proceed in forma pauperis.

The clerk shall close the file and terminate all pending motions as moot.

IT IS SO ORDERED.

DATED <u>March 4,2009</u>

VAUGHN R WALKER United States District Chief Judge

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